UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,907	08/04/2003	Peter Szor	SYMC1035	7555

34350 7590 11/17/2005	EXAMINER
GUNNISON, MCKAY & HODGSON, L.L.P. 1900 GARDEN ROAD, SUITE 220 MONTEREY, CA 93940	ALPHONSE, FRITZ

ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _04 August 2003_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _04 August 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _3_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1, 3-4, 6-17, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by

Khazan (US Pub. No. 20050108562 A1).

As to claim 12, Khazan discloses (fig. 4A; [0040]) shows a malicious code detection

device (110) including: an intercept module (114; [0073]); an analyzer module (104-108; [0076])

coupled to the intercept module (114); a request database (see figs. 1, 4A) coupled to the

analyzer module (114; [0032]); and a standards list (106) coupled to the analyzer module (108;

see [0040[0072; 0078].

As to claims 13-14, Khazan discloses a malicious code detection device comprising an

inclusion profile list (112) coupled to the analyzer module (104-108).

As to claims 15-16, Khazan discloses a malicious code detection device, further

comprising a memory (data storage system 12) area coupled to the intercept module (114) and

the analyzer module (see [0072]); and, wherein the intercept module (114) includes an

interception mechanism for intercepting a request ([0073]).

As to claims 1 and 17, Khazan (figs. 1, 4A) discloses a method including stalling a

request (fig. 1 shows a data storage system 12 for holding a request; see [0032]); and

determining whether the request is suspicious, wherein upon a determination that the request is suspicious, determining whether malicious code activity is detected based upon the request ([00120]).

As to claims 3 and 19, the claims differ from claim 1 by the additional limitations "wherein upon a determination that the request is suspicious, adding a request entry representative of the request to a request database, and determining whether malicious code activity is detected on the host computer system based upon the request entry." However, the limitations are clearly disclosed by Khazan (fig. 11; [0102-0103]).

As to claims 4, 6 and 8, Khazan discloses a method, further releasing the request upon a determination that the request is not suspicious (fig. 8; [0094]).

As to claim 7, method claim 7 corresponds to apparatus claims 12-14; therefore, it is analyzed as previously discussed in claims 12-14 above.

As to claim 9-11, Khazan discloses a method, wherein the request is an HTTP GET request; and, wherein the intercepting a request on a host computer system occurs at the application level ([0036; 0045]).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 2, 5, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazan in view of Bates (U.S. Pat. No. 6,785,732).

As to claims 2, 5, 18 and 20, Khazan does not explicitly disclose a method, which generates a notification that malicious code activity is detected; and implements one or more protective actions.

However, in the same field of endeavor, Bates discloses a computer system including a virus checker, which generates a notification that malicious code activity is detected; and implements one or more protective actions (col. 6, lines 21-38).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Khazan's malicious code detection technique with the virus checker system, as disclosed by Bates. By doing so, senders of viruses are notified when a web server detects a virus, thus helping to inhibit the proliferation of the virus (col. 2, lines 51-56).

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).
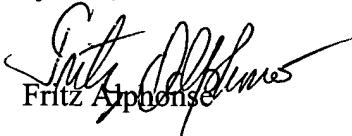
6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (571) 272-3813. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3824.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fritz Alphonse

Art Unit 2133

November 10, 2005

GUY LAMARRE
PRIMARY EXAMINER